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16 Attorneys for Defendants  
17 MEDIVATION INC., DAVID T. HUNG,  
C. PATRICK MACHADO and LYNN SEELY

19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA

22 DAVID APPLESTEIN, Individually and on  
Behalf of All Others Similarly Situated,

23 Plaintiff,

24 v.

25 MEDIVATION INC., DAVID T. HUNG, C.  
PATRICK MACHADO, LYNN SEELY and  
GREGORY BAILEY,

27 Defendants.

28 Case No. CV-10-0998 EMC

**STIPULATION AND [PROPOSED] ORDER  
PERMITTING LEAD PLAINTIFF TO FILE  
THIRD AMENDED COMPLAINT, SETTING  
BRIEFING SCHEDULE, AND POSTPONING  
THE CASE MANAGEMENT CONFERENCE  
CURRENTLY SET FOR DECEMBER 2, 2011**

1           WHEREAS, the original complaint was filed in this action on March 9, 2010 under the  
 2 caption *David Applestein et al. v. Medivation, Inc. et al.*, Case No. CV-10-0998.

3           WHEREAS, on April 7, 2011, the Court entered an Order appointing Catoosa Fund, LP as  
 4 Lead Plaintiff in this action.

5           WHEREAS, Lead Plaintiff filed a Consolidated and Amended Complaint (“CAC”) on May  
 6, 2011.

7           WHEREAS, Defendants moved to dismiss the CAC on June 8, 2011; Lead Plaintiff filed an  
 8 opposition to the motion on July 8, 2011; Defendants filed a reply in support of their motion on  
 9 July 22, 2011, and the Court held a hearing on the motion on August 12, 2011.

10          WHEREAS, on August 18, 2011, the Court entered an Order granting Defendants’ motion  
 11 to dismiss the CAC without prejudice. The Order provided that Lead Plaintiff would have thirty  
 12 days from the date of the Order to file a Second Amended Complaint (“SAC”) and Defendants  
 13 would then have 30 days from the date of filing of the SAC in which to respond thereto.

14          WHEREAS, the Court’s August 18 Order also scheduled a further status conference for  
 15 December 2, 2011, at 9:00 a.m., and instructed the parties to file a joint status conference  
 16 statement one week before the conference, or by November 23, 2011.

17          WHEREAS, on September 15, 2011, Lead Plaintiff filed a motion for extension of time,  
 18 seeking an additional 45 days in which to file the SAC.

19          WHEREAS, the Court granted Lead Plaintiff’s motion on September 16, 2011 over  
 20 Defendants’ written objection.

21          WHEREAS, Lead Plaintiff filed the SAC on November 2, 2011, triggering a December 1,  
 22 2011 deadline in which for Defendants to respond.

23          WHEREAS, on November 18, 2011, Lead Plaintiff filed a Motion for Leave To File a Third  
 24 Amended Complaint and supporting memorandum, along with a copy of Lead Plaintiff’s  
 25 proposed Third Consolidated and Amended Complaint (“TAC”), which was attached as an  
 26 exhibit to the Declaration of U. Seth Ottensoser in Support of Lead Plaintiff’s Motion for Leave  
 27 to File a Third Amended Complaint. The motion is currently scheduled to be heard on December  
 28 23, 2011 at 1:30 p.m.

WHEREAS, the parties have met and conferred regarding Lead Plaintiff's motion for leave to file the TAC and the pending status conference currently scheduled for December 2, 2011, and in the interests of efficiency and judicial economy, now wish to stipulate as follows.

4 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED between the parties in this  
5 action, by and through their respective counsel of record, that:

6           1. Pursuant to Federal Rule of Civil Procedure 15(a)(2), Defendants consent to Lead  
7 Plaintiff filing the TAC. Lead Plaintiff shall file the TAC on or before November 28, 2011.

8           2. Upon its filing, the TAC will be the operative complaint in this action. Defendants  
9 will have no obligation to respond to the SAC.

10           3. The December 23, 2011 hearing on Lead Plaintiff's motion for leave to file the  
11 TAC is hereby vacated.

15        5. Defendants' motion to dismiss the TAC will be heard by the Court on Friday,  
16 March 16, 2012 at 1:30 p.m. or on such other date as may be convenient for the Court.

17       **6.**      The status conference currently scheduled in this matter for December 2, 2011 at  
18 9:00 a.m. will be postponed to March 16, 2012 at 1:30 p.m. to coincide with the hearing on the  
19 motion to dismiss the TAC, or to such other date and time as the Court may set for that hearing.  
20 The parties will file a joint status conference statement one week before the status conference.

22 | Dated: November 23, 2011

BERNSTEIN LIEBHARD LLP

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/s/

**Lead Counsel for Lead Plaintiff and the  
Proposed Class**

1 Dated: November 23, 2011

COOLEY LLP

3 \_\_\_\_\_  
2 /s/  
3 Angela L. Dunning (212047)  
4

5 Attorneys for Defendants  
6 MEDIVATION INC., DAVID T. HUNG,  
7 C. PATRICK MACHADO and LYNN SEELY  
8

**FILER'S ATTESTATION**

9 Pursuant to General Order No. 45, Section X, Subparagraph B, the undersigned attests that  
10 all parties have concurred in the filing of this Stipulation and [Proposed] Order Permitting  
11 Plaintiff To File Its Third Amended Complaint, Setting a Briefing Schedule, and Postponing the  
12 Case Management Conference Currently Set for December 2, 2011.

13 Dated: November 23, 2011

COOLEY LLP

14 \_\_\_\_\_  
15 /s/  
16 Angela L. Dunning

17 Attorneys for Defendants  
18 MEDIVATION INC., DAVID T. HUNG,  
19 C. PATRICK MACHADO and LYNN SEELY  
20

**IT IS SO ORDERED.** (as modified in paragraph 4 above)

21 Dated: 11/23, 2011

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